

REFERENCE TITLE: **firearm; definition**

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1064

Introduced by
Senators Murphy, Ward; Representatives Borrelli, Kavanagh, Kwasman, Seel,
Smith; Senators Barto, Burges, Crandell, Griffin, Shooter, Yarbrough;
Representatives Barton, Fann, Livingston, Mitchell, Montenegro, Petersen,
Thorpe

AN ACT

**AMENDING SECTIONS 13-105, 13-912, 13-925, 13-3101, 13-3102, 13-3110, 13-3112
AND 15-714.01, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-105, Arizona Revised Statutes, is amended to
3 read:

4 13-105. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Absconder" means a probationer who has moved from the
7 probationer's primary residence without permission of the probation officer,
8 who cannot be located within ninety days of the previous contact and against
9 whom a petition to revoke has been filed in the superior court alleging that
10 the probationer's whereabouts are unknown. A probationer is no longer deemed
11 an absconder when the probationer is voluntarily or involuntarily returned to
12 probation service.

13 2. "Act" means a bodily movement.

14 3. "Benefit" means anything of value or advantage, present or
15 prospective.

16 4. "Calendar year" means three hundred sixty-five days' actual time
17 served without release, suspension or commutation of sentence, probation,
18 pardon or parole, work furlough or release from confinement on any other
19 basis.

20 5. "Community supervision" means that portion of a felony sentence
21 that is imposed by the court pursuant to section 13-603, subsection I and
22 that is served in the community after completing a period of imprisonment or
23 served in prison in accordance with section 41-1604.07.

24 6. "Conduct" means an act or omission and its accompanying culpable
25 mental state.

26 7. "Crime" means a misdemeanor or a felony.

27 8. "Criminal street gang" means an ongoing formal or informal
28 association of persons in which members or associates individually or
29 collectively engage in the commission, attempted commission, facilitation or
30 solicitation of any felony act and that has at least one individual who is a
31 criminal street gang member.

32 9. "Criminal street gang member" means an individual to whom at least
33 two of the following seven criteria that indicate criminal street gang
34 membership apply:

35 (a) Self-proclamation.

36 (b) Witness testimony or official statement.

37 (c) Written or electronic correspondence.

38 (d) Paraphernalia or photographs.

39 (e) Tattoos.

40 (f) Clothing or colors.

41 (g) Any other indicia of street gang membership.

42 10. "Culpable mental state" means intentionally, knowingly, recklessly
43 or with criminal negligence as those terms are defined in this paragraph:

1 (a) "Intentionally" or "with the intent to" means, with respect to a
2 result or to conduct described by a statute defining an offense, that a
3 person's objective is to cause that result or to engage in that conduct.

4 (b) "Knowingly" means, with respect to conduct or to a circumstance
5 described by a statute defining an offense, that a person is aware or
6 believes that the person's conduct is of that nature or that the circumstance
7 exists. It does not require any knowledge of the unlawfulness of the act or
8 omission.

9 (c) "Recklessly" means, with respect to a result or to a circumstance
10 described by a statute defining an offense, that a person is aware of and
11 consciously disregards a substantial and unjustifiable risk that the result
12 will occur or that the circumstance exists. The risk must be of such nature
13 and degree that disregard of such risk constitutes a gross deviation from the
14 standard of conduct that a reasonable person would observe in the situation.
15 A person who creates such a risk but who is unaware of such risk solely by
16 reason of voluntary intoxication also acts recklessly with respect to such
17 risk.

18 (d) "Criminal negligence" means, with respect to a result or to a
19 circumstance described by a statute defining an offense, that a person fails
20 to perceive a substantial and unjustifiable risk that the result will occur
21 or that the circumstance exists. The risk must be of such nature and degree
22 that the failure to perceive it constitutes a gross deviation from the
23 standard of care that a reasonable person would observe in the situation.

24 11. "Dangerous drug" means dangerous drug as defined in section
25 13-3401.

26 12. "Dangerous instrument" means anything that under the circumstances
27 in which it is used, attempted to be used or threatened to be used is readily
28 capable of causing death or serious physical injury.

29 13. "Dangerous offense" means an offense involving the discharge, use
30 or threatening exhibition of a deadly weapon or dangerous instrument or the
31 intentional or knowing infliction of serious physical injury on another
32 person.

33 14. "Deadly physical force" means force that is used with the purpose
34 of causing death or serious physical injury or in the manner of its use or
35 intended use is capable of creating a substantial risk of causing death or
36 serious physical injury.

37 15. "Deadly weapon" means anything designed for lethal use, including a
38 firearm.

39 16. "Economic loss" means any loss incurred by a person as a result of
40 the commission of an offense. Economic loss includes lost interest, lost
41 earnings and other losses that would not have been incurred but for the
42 offense. Economic loss does not include losses incurred by the convicted
43 person, damages for pain and suffering, punitive damages or consequential
44 damages.

1 17. "Enterprise" includes any corporation, association, labor union or
2 other legal entity.

3 18. "Felony" means an offense for which a sentence to a term of
4 imprisonment in the custody of the state department of corrections is
5 authorized by any law of this state.

6 19. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
7 rifle, shotgun or other weapon that will EXPEL or is designed to ~~or may~~
8 ~~readily be converted to~~ expel a SOLID projectile OR PROJECTILES by the action
9 of ~~expanding gases, except that it does not include a firearm in permanently~~
10 ~~inoperable condition~~ AN EXPLOSIVE OR A BURNING GAS, THAT WAS MANUFACTURED
11 AFTER JANUARY 1, 1899 AND THAT IS DESIGNED TO USE FIXED CARTRIDGES. FIREARM
12 DOES NOT INCLUDE A FIREARM THAT IS INCAPABLE OF BEING FIRED WITHOUT
13 MECHANICAL REPAIR BY THE USE OF TOOLS OR THE REPLACEMENT OF PARTS.

14 20. "Government" means the state, any political subdivision of the
15 state or any department, agency, board, commission, institution or
16 governmental instrumentality of or within the state or political subdivision.

17 21. "Government function" means any activity that a public servant is
18 legally authorized to undertake on behalf of a government.

19 22. "Historical prior felony conviction" means:

20 (a) Any prior felony conviction for which the offense of conviction
21 either:

22 (i) Mandated a term of imprisonment except for a violation of chapter
23 34 of this title involving a drug below the threshold amount.

24 (ii) Involved a dangerous offense.

25 (iii) Involved the illegal control of a criminal enterprise.

26 (iv) Involved aggravated driving under the influence of intoxicating
27 liquor or drugs.

28 (v) Involved any dangerous crime against children as defined in
29 section 13-705.

30 (b) Any class 2 or 3 felony, except the offenses listed in subdivision
31 (a) of this paragraph, that was committed within the ten years immediately
32 preceding the date of the present offense. Any time spent on absconder
33 status while on probation, on escape status or incarcerated is excluded in
34 calculating if the offense was committed within the preceding ten years. If
35 a court determines a person was not on absconder status while on probation or
36 escape status, that time is not excluded. For the purposes of this
37 subdivision, "escape" means:

38 (i) A departure from custody or from a juvenile secure care facility,
39 a juvenile detention facility or an adult correctional facility in which the
40 person is held or detained, with knowledge that the departure is not
41 permitted, or the failure to return to custody or detention following a
42 temporary leave granted for a specific purpose or for a limited period.

43 (ii) A failure to report as ordered to custody or detention to begin
44 serving a term of incarceration.

1 (c) Any class 4, 5 or 6 felony, except the offenses listed in
2 subdivision (a) of this paragraph, that was committed within the five years
3 immediately preceding the date of the present offense. Any time spent on
4 absconder status while on probation, on escape status or incarcerated is
5 excluded in calculating if the offense was committed within the preceding
6 five years. If a court determines a person was not on absconder status while
7 on probation or escape status, that time is not excluded. For the purposes
8 of this subdivision, "escape" has the same meaning prescribed in subdivision
9 (b) of this paragraph.

10 (d) Any felony conviction that is a third or more prior felony
11 conviction.

12 (e) Any offense committed outside the jurisdiction of this state that
13 was punishable by that jurisdiction as a felony, ~~AND~~ AND that was committed
14 within the five years immediately preceding the date of the present
15 offense. Any time spent on absconder status while on probation, on escape
16 status or incarcerated is excluded in calculating if the offense was
17 committed within the preceding five years. If a court determines a person
18 was not on absconder status while on probation or escape status, that time is
19 not excluded. For the purposes of this subdivision, "escape" has the same
20 meaning prescribed in subdivision (b) of this paragraph.

21 (f) Any offense committed outside the jurisdiction of this state that
22 involved the discharge, use or threatening exhibition of a deadly weapon or
23 dangerous instrument or the intentional or knowing infliction of death or
24 serious physical injury AND that was punishable by that jurisdiction as a
25 felony. A person who has been convicted of a felony weapons possession
26 violation in any court outside the jurisdiction of this state that would not
27 be punishable as a felony under the laws of this state is not subject to this
28 paragraph.

29 23. "Human smuggling organization" means an ongoing formal or informal
30 association of persons in which members or associates individually or
31 collectively engage in the smuggling of human beings.

32 24. "Intoxication" means any mental or physical incapacity resulting
33 from use of drugs, toxic vapors or intoxicating liquors.

34 25. "Misdemeanor" means an offense for which a sentence to a term of
35 imprisonment other than to the custody of the state department of corrections
36 is authorized by any law of this state.

37 26. "Narcotic drug" means narcotic drugs as defined in section 13-3401.

38 27. "Offense" or "public offense" means conduct for which a sentence to
39 a term of imprisonment or of a fine is provided by any law of the state in
40 which it occurred or by any law, regulation or ordinance of a political
41 subdivision of that state and, if the act occurred in a state other than this
42 state, it would be so punishable under the laws, regulations or ordinances of
43 this state or of a political subdivision of this state if the act had
44 occurred in this state.

1 28. "Omission" means the failure to perform an act as to which a duty
2 of performance is imposed by law.

3 29. "Peace officer" means any person vested by law with a duty to
4 maintain public order and make arrests and includes a constable.

5 30. "Person" means a human being and, as the context requires, an
6 enterprise, a public or private corporation, an unincorporated association, a
7 partnership, a firm, a society, a government, a governmental authority or an
8 individual or entity capable of holding a legal or beneficial interest in
9 property.

10 31. "Petty offense" means an offense for which a sentence of a fine
11 only is authorized by law.

12 32. "Physical force" means force used upon or directed toward the body
13 of another person and includes confinement, but does not include deadly
14 physical force.

15 33. "Physical injury" means the impairment of physical condition.

16 34. "Possess" means knowingly to have physical possession or otherwise
17 to exercise dominion or control over property.

18 35. "Possession" means a voluntary act if the defendant knowingly
19 exercised dominion or control over property.

20 36. "Preconviction custody" means the confinement of a person in a jail
21 in this state or another state after the person is arrested for or charged
22 with a felony offense.

23 37. "Property" means anything of value, tangible or intangible.

24 38. "Public servant":

25 (a) Means any officer or employee of any branch of government, whether
26 elected, appointed or otherwise employed, including a peace officer, and any
27 person participating as an advisor or consultant or otherwise in performing a
28 governmental function.

29 (b) Does not include jurors or witnesses.

30 (c) Includes those who have been elected, appointed, employed or
31 designated to become a public servant although not yet occupying that
32 position.

33 39. "Serious physical injury" includes physical injury that creates a
34 reasonable risk of death, or that causes serious and permanent disfigurement,
35 serious impairment of health or loss or protracted impairment of the function
36 of any bodily organ or limb.

37 40. "Unlawful" means contrary to law or, where the context so requires,
38 not permitted by law.

39 41. "Vehicle" means a device in, upon or by which any person or
40 property is, may be or could have been transported or drawn upon a highway,
41 waterway or airway, excepting devices moved by human power or used
42 exclusively upon stationary rails or tracks.

43 42. "Voluntary act" means a bodily movement performed consciously and
44 as a result of effort and determination.

1 43. "Voluntary intoxication" means intoxication caused by the knowing
2 use of drugs, toxic vapors or intoxicating liquors by a person, the tendency
3 of which to cause intoxication the person knows or ought to know, unless the
4 person introduces them pursuant to medical advice or under such duress as
5 would afford a defense to an offense.

6 Sec. 2. Section 13-912, Arizona Revised Statutes, is amended to read:
7 13-912. Restoration of civil rights for first offenders:
8 exception

9 A. Any person who has not previously been convicted of any other
10 felony shall automatically be restored any civil rights that were lost or
11 suspended by the conviction if the person both:

12 1. Completes a term of probation or receives an absolute discharge
13 from imprisonment.

14 2. Pays any fine or restitution imposed.

15 B. This section does not apply to a person's right to possess ~~weapons~~
16 ~~FIREARMS~~ as defined in section ~~13-3101~~ 13-105 unless the person applies to a
17 court pursuant to section 13-905 or 13-906.

18 Sec. 3. Section 13-925, Arizona Revised Statutes, is amended to read:
19 13-925. Restoration of right to possess a firearm; mentally ill
20 persons; petition

21 A. A person may petition the court that entered an order, finding or
22 adjudication that resulted in the person being a prohibited possessor as
23 defined in section 13-3101, subsection A, paragraph ~~7- 6~~, subdivision (a) or
24 subject to 18 United States Code section 922(d)(4) or (g)(4) to restore the
25 person's right to possess a firearm.

26 B. The person or the person's guardian or attorney may file the
27 petition. The petition shall be served on the attorney for the state who
28 appeared in the underlying case.

29 C. On ~~THE~~ filing of the petition the court shall set a hearing. At
30 the hearing, the person shall present psychological or psychiatric evidence
31 in support of the petition. The state shall provide the court with the
32 person's criminal history records, if any. The court shall receive evidence
33 on and consider the following before granting or denying the petition:

34 1. The circumstances that resulted in the person being a prohibited
35 possessor as defined in section 13-3101, subsection A, paragraph ~~7- 6~~,
36 subdivision (a) or subject to 18 United States Code section 922(d)(4) or
37 (g)(4).

38 2. The person's record, including the person's mental health record
39 and criminal history record, if any.

40 3. The person's reputation based on character witness statements,
41 testimony or other character evidence.

42 4. Whether the person is a danger to self or others, ~~OR~~ is
43 persistently, acutely or gravely disabled or whether the circumstances that
44 led to the original order, adjudication or finding remain in effect.

1 5. Any change in the person's condition or circumstances that is
2 relevant to the relief sought.

3 6. Any other evidence deemed admissible by the court.

4 D. The petitioner shall prove by clear and convincing evidence both of
5 the following:

6 1. The petitioner is not likely to act in a manner that is dangerous
7 to public safety.

8 2. Granting the requested relief is not contrary to the public
9 interest.

10 E. At the conclusion of the hearing, the court shall issue findings of
11 fact and conclusions of law.

12 F. If the court grants the petition for relief, the original order,
13 finding or adjudication is deemed not to have occurred for the purposes of
14 applying section 13-3101, subsection A, paragraph ~~7~~ 6, subdivision (a),
15 Public Law 110-180, section 105(a) or 18 United States Code section 922(d)(4)
16 or (g)(4) to that person.

17 G. The granting of a petition under this section only restores the
18 person's right to possess a firearm and does not apply to and has no ~~effect~~
19 ~~EFFECT~~ on any other rights or benefits the person receives.

20 H. The court shall promptly notify the department of public safety of
21 an order granting a petition under this section. As soon thereafter as
22 practicable the department shall update, correct, modify or remove the
23 person's record in any database that the department maintains and makes
24 available to the national instant criminal background check system consistent
25 with the rules pertaining to the database. Within ten business days after
26 receiving the notification from the court, the department shall notify the
27 United States attorney general that the person no longer falls within the
28 provisions of section 13-3101, subsection A, paragraph ~~7~~ 6, subdivision (a)
29 or 18 United States Code section 922(d)(4) or (g)(4).

30 Sec. 4. Section 13-3101, Arizona Revised Statutes, is amended to read:

31 13-3101. Definitions

32 A. In this chapter, unless the context otherwise requires:

33 1. "Deadly weapon" means anything that is designed for lethal use.
34 The term includes a firearm.

35 2. "Deface" means to remove, alter or destroy the manufacturer's
36 serial number.

37 3. "Explosive" means any dynamite, nitroglycerine, black powder, or
38 other similar explosive material, including plastic explosives. Explosive
39 does not include ammunition or ammunition components such as primers,
40 percussion caps, smokeless powder, black powder and black powder substitutes
41 used for hand loading purposes.

42 ~~4. "Firearm" means any loaded or unloaded handgun, pistol, revolver,~~
43 ~~rifle, shotgun or other weapon that will expel, is designed to expel or may~~
44 ~~readily be converted to expel a projectile by the action of an explosive.~~
45 ~~Firearm does not include a firearm in permanently inoperable condition.~~

1 ~~5.~~ 4. "Improvised explosive device" means a device that incorporates
2 explosives or destructive, lethal, noxious, pyrotechnic or incendiary
3 chemicals and that is designed to destroy, disfigure, terrify or harass.

4 ~~6.~~ 5. "Occupied structure" means any building, object, vehicle,
5 watercraft, aircraft or place with sides and a floor that is separately
6 securable from any other structure attached to it, that is used for lodging,
7 business, transportation, recreation or storage and in which one or more
8 human beings either are or are likely to be present or so near as to be in
9 equivalent danger at the time the discharge of a firearm occurs. Occupied
10 structure includes any dwelling house, whether occupied, unoccupied or
11 vacant.

12 ~~7.~~ 6. "Prohibited possessor" means any person:

13 (a) Who has been found to constitute a danger to self or to others or
14 to be persistently or acutely disabled or gravely disabled pursuant to court
15 order under section 36-540, and whose right to possess a firearm has not been
16 restored pursuant to section 13-925.

17 (b) Who has been convicted within or without this state of a felony or
18 who has been adjudicated delinquent for a felony and whose civil right to
19 possess or carry a gun or firearm has not been restored.

20 (c) Who is at the time of possession serving a term of imprisonment in
21 any correctional or detention facility.

22 (d) Who is at the time of possession serving a term of probation
23 pursuant to a conviction for a domestic violence offense as defined in
24 section 13-3601 or a felony offense, parole, community supervision, work
25 furlough, home arrest or release on any other basis or who is serving a term
26 of probation or parole pursuant to the interstate compact under title 31,
27 chapter 3, article 4.1.

28 (e) Who is an undocumented alien or a nonimmigrant alien traveling
29 with or without documentation in this state for business or pleasure or who
30 is studying in this state and who maintains a foreign residence abroad. This
31 subdivision does not apply to:

32 (i) Nonimmigrant aliens who possess a valid hunting license or permit
33 that is lawfully issued by a state in the United States.

34 (ii) Nonimmigrant aliens who enter the United States to participate in
35 a competitive target shooting event or to display firearms at a sports or
36 hunting trade show that is sponsored by a national, state or local firearms
37 trade organization devoted to the competitive use or other sporting use of
38 firearms.

39 (iii) Certain diplomats.

40 (iv) Officials of foreign governments or distinguished foreign
41 visitors who are designated by the United States department of state.

42 (v) Persons who have received a waiver from the United States attorney
43 general.

44 ~~8.~~ 7. "Prohibited weapon":

45 (a) Includes the following:

1 (i) An item that is a bomb, grenade, rocket having a propellant charge
2 of more than four ounces or mine and that is explosive, incendiary or poison
3 gas.

4 (ii) A device that is designed, made or adapted to muffle the report
5 of a firearm.

6 (iii) A firearm that is capable of shooting more than one shot
7 automatically, without manual reloading, by a single function of the trigger.

8 (iv) A rifle with a barrel length of less than sixteen inches, or
9 shotgun with a barrel length of less than eighteen inches, or any firearm
10 that is made from a rifle or shotgun and that, as modified, has an overall
11 length of less than twenty-six inches.

12 (v) An instrument, including a nunchaku, that consists of two or more
13 sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,
14 wire or chain, in the design of a weapon used in connection with the practice
15 of a system of self-defense.

16 (vi) A breakable container that contains a flammable liquid with a
17 flash point of one hundred fifty degrees Fahrenheit or less and that has a
18 wick or similar device capable of being ignited.

19 (vii) A chemical or combination of chemicals, compounds or materials,
20 including dry ice, that is possessed or manufactured for the purpose of
21 generating a gas to cause a mechanical failure, rupture or bursting or an
22 explosion or detonation of the chemical or combination of chemicals,
23 compounds or materials.

24 (viii) An improvised explosive device.

25 (ix) Any combination of parts or materials that is designed and
26 intended for use in making or converting a device into an item set forth in
27 item (i), (vi) or (viii) of this subdivision.

28 (b) Does not include:

29 (i) Any fireworks that are imported, distributed or used in compliance
30 with state laws or local ordinances.

31 (ii) Any propellant, propellant actuated devices or propellant
32 actuated industrial tools that are manufactured, imported or distributed for
33 their intended purposes.

34 (iii) A device that is commercially manufactured primarily for the
35 purpose of illumination.

36 ~~9-~~ 8. "Trafficking" means to sell, transfer, distribute, dispense or
37 otherwise dispose of a weapon or explosive to another person, or to buy,
38 receive, possess or obtain control of a weapon or explosive, with the intent
39 to sell, transfer, distribute, dispense or otherwise dispose of the weapon or
40 explosive to another person.

41 B. The items set forth in subsection A, paragraph ~~8-~~ 7, subdivision
42 (a), items (i), (ii), (iii) and (iv) of this section do not include any
43 firearms or devices that are registered in the national firearms registry and
44 transfer records of the United States treasury department or any firearm that

1 has been classified as a curio or relic by the United States treasury
2 department.

3 Sec. 5. Section 13-3102, Arizona Revised Statutes, is amended to read:

4 13-3102. Misconduct involving weapons; defenses;
5 classification; definitions

6 A. A person commits misconduct involving weapons by knowingly:

7 1. Carrying a deadly weapon except a pocket knife concealed on his
8 person or within his immediate control in or on a means of transportation:

9 (a) In the furtherance of a serious offense as defined in section
10 13-706, a violent crime as defined in section 13-901.03 or any other felony
11 offense; or

12 (b) When contacted by a law enforcement officer and failing to
13 accurately answer the officer if the officer asks whether the person is
14 carrying a concealed deadly weapon; or

15 2. Carrying a deadly weapon except a pocket knife concealed on his
16 person or concealed within his immediate control in or on a means of
17 transportation if the person is under twenty-one years of age; or

18 3. Manufacturing, possessing, transporting, selling or transferring a
19 prohibited weapon, except that if the violation involves dry ice, a person
20 commits misconduct involving weapons by knowingly possessing the dry ice with
21 the intent to cause injury to or death of another person or to cause damage
22 to the property of another person; or

23 4. Possessing a deadly weapon or prohibited weapon if such person is a
24 prohibited possessor; or

25 5. Selling or transferring a deadly weapon to a prohibited possessor;
26 or

27 6. Defacing a deadly weapon; or

28 7. Possessing a defaced deadly weapon knowing the deadly weapon was
29 defaced; or

30 8. Using or possessing a deadly weapon during the commission of any
31 felony offense included in chapter 34 of this title; or

32 9. Discharging a firearm at an occupied structure in order to assist,
33 promote or further the interests of a criminal street gang, a criminal
34 syndicate or a racketeering enterprise; or

35 10. Unless specifically authorized by law, entering any public
36 establishment or attending any public event and carrying a deadly weapon on
37 his person after a reasonable request by the operator of the establishment or
38 the sponsor of the event or the sponsor's agent to remove his weapon and
39 place it in the custody of the operator of the establishment or the sponsor
40 of the event for temporary and secure storage of the weapon pursuant to
41 section 13-3102.01; or

42 11. Unless specifically authorized by law, entering an election polling
43 place on the day of any election carrying a deadly weapon; or

44 12. Possessing a deadly weapon on school grounds; or

1 13. Unless specifically authorized by law, entering a nuclear or
2 hydroelectric generating station carrying a deadly weapon on his person or
3 within the immediate control of any person; or

4 14. Supplying, selling or giving possession or control of a firearm to
5 another person if the person knows or has reason to know that the other
6 person would use the firearm in the commission of any felony; or

7 15. Using, possessing or exercising control over a deadly weapon in
8 furtherance of any act of terrorism as defined in section 13-2301 or
9 possessing or exercising control over a deadly weapon knowing or having
10 reason to know that it will be used to facilitate any act of terrorism as
11 defined in section 13-2301; OR ~~—~~

12 16. Trafficking in weapons or explosives for financial gain in order to
13 assist, promote or further the interests of a criminal street gang, a
14 criminal syndicate or a racketeering enterprise.

15 B. Subsection A, paragraph 2 of this section shall not apply to:

16 1. A person in his dwelling, on his business premises or on real
17 property owned or leased by that person or that person's parent, grandparent
18 or legal guardian.

19 2. A member of the sheriff's volunteer posse or reserve organization
20 who has received and passed firearms training that is approved by the Arizona
21 peace officer standards and training board and who is authorized by the
22 sheriff to carry a concealed weapon pursuant to section 11-441.

23 3. A firearm that is carried in:

24 (a) A manner where any portion of the firearm or holster in which the
25 firearm is carried is visible.

26 (b) A holster that is wholly or partially visible.

27 (c) A scabbard or case designed for carrying weapons that is wholly or
28 partially visible.

29 (d) Luggage.

30 (e) A case, holster, scabbard, pack or luggage that is carried within
31 a means of transportation or within a storage compartment, map pocket, trunk
32 or glove compartment of a means of transportation.

33 C. Subsection A, paragraphs 2, 3, 7, 10, 11, 12 and 13 of this section
34 shall not apply to:

35 1. A peace officer or any person summoned by any peace officer to
36 assist and while actually assisting in the performance of official duties; or

37 2. A member of the military forces of the United States or of any
38 state of the United States in the performance of official duties; or

39 3. A warden, deputy warden, community correctional officer, detention
40 officer, special investigator or correctional officer of the state department
41 of corrections or the department of juvenile corrections; or

42 4. A person specifically licensed, authorized or permitted pursuant to
43 a statute of this state or of the United States.

1 D. Subsection A, paragraphs 3 and 7 of this section shall not apply
2 to:

3 1. The possessing, transporting, selling or transferring of weapons by
4 a museum as a part of its collection or an educational institution for
5 educational purposes or by an authorized employee of such museum or
6 institution, if:

7 (a) Such museum or institution is operated by the United States or
8 this state or a political subdivision of this state, or by an organization
9 described in 26 United States Code section 170(c) as a recipient of a
10 charitable contribution; and

11 (b) Reasonable precautions are taken with respect to theft or misuse
12 of such material.

13 2. The regular and lawful transporting as merchandise; or

14 3. Acquisition by a person by operation of law such as by gift, devise
15 or descent or in a fiduciary capacity as a recipient of the property or
16 former property of an insolvent, incapacitated or deceased person.

17 E. Subsection A, paragraph 3 of this section shall not apply to the
18 merchandise of an authorized manufacturer of or dealer in prohibited weapons,
19 when such material is intended to be manufactured, possessed, transported,
20 sold or transferred solely for or to a dealer, a regularly constituted or
21 appointed state, county or municipal police department or police officer, a
22 detention facility, the military service of this or another state or the
23 United States, a museum or educational institution or a person specifically
24 licensed or permitted pursuant to federal or state law.

25 F. Subsection A, paragraph 10 of this section shall not apply to
26 shooting ranges or shooting events, hunting areas or similar locations or
27 activities.

28 G. Subsection A, paragraph 3 of this section shall not apply to a
29 weapon described in section 13-3101, subsection A, paragraph ~~8~~ 7,
30 subdivision (a), item (v), if such weapon is possessed for the purposes of
31 preparing for, conducting or participating in lawful exhibitions,
32 demonstrations, contests or athletic events involving the use of such weapon.
33 Subsection A, paragraph 12 of this section shall not apply to a weapon if
34 such weapon is possessed for the purposes of preparing for, conducting or
35 participating in hunter or firearm safety courses.

36 H. Subsection A, paragraph 12 of this section shall not apply to the
37 possession of a:

38 1. Firearm that is not loaded and that is carried within a means of
39 transportation under the control of an adult provided that if the adult
40 leaves the means of transportation the firearm shall not be visible from the
41 outside of the means of transportation and the means of transportation shall
42 be locked.

43 2. Firearm for use on the school grounds in a program approved by a
44 school.

1 3. Firearm by a person who possesses a certificate of firearms
2 proficiency pursuant to section 13-3112, subsection T and who is authorized
3 to carry a concealed firearm pursuant to the law enforcement officers safety
4 act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States Code sections 926B
5 and 926C).

6 I. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall not
7 apply to commercial nuclear generating station armed nuclear security guards
8 during the performance of official duties or during any security training
9 exercises sponsored by the commercial nuclear generating station or local,
10 state or federal authorities.

11 J. The operator of the establishment or the sponsor of the event or
12 the employee of the operator or sponsor or the agent of the sponsor,
13 including a public entity or public employee, is not liable for acts or
14 omissions pursuant to subsection A, paragraph 10 of this section unless the
15 operator, sponsor, employee or agent intended to cause injury or was grossly
16 negligent.

17 K. If a law enforcement officer contacts a person who is in possession
18 of a firearm, the law enforcement officer may take temporary custody of the
19 firearm for the duration of that contact.

20 L. Misconduct involving weapons under subsection A, paragraph 15 of
21 this section is a class 2 felony. Misconduct involving weapons under
22 subsection A, paragraph 9, 14 or 16 of this section is a class 3 felony.
23 Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13 of
24 this section is a class 4 felony. Misconduct involving weapons under
25 subsection A, paragraph 12 of this section is a class 1 misdemeanor unless
26 the violation occurs in connection with conduct that violates section
27 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
28 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
29 Misconduct involving weapons under subsection A, paragraph 1, subdivision (a)
30 of this section or subsection A, paragraph 5, 6 or 7 of this section is a
31 class 6 felony. Misconduct involving weapons under subsection A, paragraph
32 1, subdivision (b) of this section or subsection A, paragraph 10 or 11 of
33 this section is a class 1 misdemeanor. Misconduct involving weapons under
34 subsection A, paragraph 2 of this section is a class 3 misdemeanor.

35 M. For the purposes of this section:

36 1. "Contacted by a law enforcement officer" means a lawful traffic or
37 criminal investigation, arrest or detention or an investigatory stop by a law
38 enforcement officer that is based on reasonable suspicion that an offense has
39 been or is about to be committed.

40 2. "Public establishment" means a structure, vehicle or craft that is
41 owned, leased or operated by this state or a political subdivision of this
42 state.

1 C. A permittee who carries a concealed weapon, who is required by
2 section 4-229 or 4-244 to carry a permit and who fails to present the permit
3 for inspection on the request of a law enforcement officer commits a
4 violation of this subsection and is subject to a civil penalty of not more
5 than three hundred dollars. The department of public safety shall be
6 notified of all violations of this subsection and shall immediately suspend
7 the permit. A permittee shall not be convicted of a violation of this
8 subsection if the permittee produces to the court a legible permit that is
9 issued to the permittee and that was valid at the time the permittee failed
10 to present the permit for inspection.

11 D. A law enforcement officer shall not confiscate or forfeit a weapon
12 that is otherwise lawfully possessed by a permittee whose permit is suspended
13 pursuant to subsection C of this section, except that a law enforcement
14 officer may take temporary custody of a firearm during an investigatory stop
15 of the permittee.

16 E. The department of public safety shall issue a permit to an
17 applicant who meets all of the following conditions:

18 1. Is a resident of this state or a United States citizen.

19 2. Is twenty-one years of age or older.

20 3. Is not under indictment for and has not been convicted in any
21 jurisdiction of a felony unless that conviction has been expunged, set aside
22 or vacated or the applicant's rights have been restored and the applicant is
23 currently not a prohibited possessor under state or federal law.

24 4. Does not suffer from mental illness and has not been adjudicated
25 mentally incompetent or committed to a mental institution.

26 5. Is not unlawfully present in the United States.

27 6. Has ever demonstrated competence with a firearm as prescribed by
28 subsection N of this section and provides adequate documentation that the
29 person has satisfactorily completed a training program or demonstrated
30 competence with a firearm in any state or political subdivision in the United
31 States. For the purposes of this paragraph, "adequate documentation" means:

32 (a) A current or expired permit issued by the department of public
33 safety pursuant to this section.

34 (b) An original or copy of a certificate, card or document that shows
35 the applicant has ever completed any course or class prescribed by subsection
36 N of this section or an affidavit from the instructor, school, club or
37 organization that conducted or taught the course or class attesting to the
38 applicant's completion of the course or class.

39 (c) An original or a copy of a United States department of defense
40 form 214 (DD-214) indicating an honorable discharge or general discharge
41 under honorable conditions, a certificate of completion of basic training or
42 any other document demonstrating proof of the applicant's current or former
43 service in the United States armed forces as prescribed by subsection N,
44 paragraph 5 of this section.

1 (d) An original or a copy of a concealed weapon, firearm or handgun
2 permit or a license as prescribed by subsection N, paragraph 6 of this
3 section.

4 F. The application shall be completed on a form prescribed by the
5 department of public safety. The form shall not require the applicant to
6 disclose the type of firearm for which a permit is sought. The applicant
7 shall attest under penalty of perjury that all of the statements made by the
8 applicant are true, that the applicant has been furnished a copy of this
9 chapter and chapter 4 of this title and that the applicant is knowledgeable
10 about the provisions contained in those chapters. The applicant shall submit
11 the application to the department with any documentation prescribed by
12 subsection E of this section, two sets of fingerprints and a reasonable fee
13 determined by the director of the department.

14 G. On receipt of a concealed weapon permit application, the department
15 of public safety shall conduct a check of the applicant's criminal history
16 record pursuant to section 41-1750. The department of public safety may
17 exchange fingerprint card information with the federal bureau of
18 investigation for federal criminal history record checks.

19 H. The department of public safety shall complete all of the required
20 qualification checks within sixty days after receipt of the application and
21 shall issue a permit within fifteen working days after completing the
22 qualification checks if the applicant meets all of the conditions specified
23 in subsection E of this section. If a permit is denied, the department of
24 public safety shall notify the applicant in writing within fifteen working
25 days after the completion of all of the required qualification checks and
26 shall state the reasons why the application was denied. On receipt of the
27 notification of the denial, the applicant has twenty days to submit any
28 additional documentation to the department. On receipt of the additional
29 documentation, the department shall reconsider its decision and inform the
30 applicant within twenty days of the result of the reconsideration. If
31 denied, the applicant shall be informed that the applicant may request a
32 hearing pursuant to title 41, chapter 6, article 10. For the purposes of
33 this subsection, "receipt of the application" means the first day that the
34 department has physical control of the application and that is presumed to be
35 on the date of delivery as evidenced by proof of delivery by the United
36 States postal service or a written receipt, which shall be provided by the
37 department on request of the applicant.

38 I. On issuance, a permit is valid for five years, except a permit that
39 is held by a member of the United States armed forces, including a member of
40 the Arizona national guard or a member of the reserves of any military
41 establishment of the United States, who is on federal active duty and who is
42 deployed overseas shall be extended until ninety days after the end of the
43 member's overseas deployment.

1 J. The department of public safety shall maintain a computerized
2 permit record system that is accessible to criminal justice agencies for the
3 purpose of confirming the permit status of any person who is contacted by a
4 law enforcement officer and who claims to hold a valid permit issued by this
5 state. This information and any other records that are maintained regarding
6 applicants, permit holders or instructors shall not be available to any other
7 person or entity except on an order from a state or federal court. A
8 criminal justice agency shall not use the computerized permit record system
9 to conduct inquiries on whether a person is a concealed weapons permit holder
10 unless the criminal justice agency has reasonable suspicion to believe the
11 person is carrying a concealed weapon and the person is subject to a lawful
12 criminal investigation, arrest, detention or an investigatory stop.

13 K. A permit issued pursuant to this section is renewable every five
14 years. Before a permit may be renewed, a criminal history records check
15 shall be conducted pursuant to section 41-1750 within sixty days after
16 receipt of the application for renewal. For the purposes of permit renewal,
17 the permit holder is not required to submit additional fingerprints.

18 L. Applications for renewal shall be accompanied by a fee determined
19 by the director of the department of public safety.

20 M. The department of public safety shall suspend or revoke a permit
21 issued under this section if the permit holder becomes ineligible pursuant to
22 subsection E of this section. The department of public safety shall notify
23 the permit holder in writing within fifteen working days after the revocation
24 or suspension and shall state the reasons for the revocation or suspension.

25 N. An applicant shall demonstrate competence with a firearm through
26 any of the following:

27 1. Completion of any firearms safety or training course or class that
28 is available to the general public, that is offered by a law enforcement
29 agency, a junior college, a college or a private or public institution,
30 academy, organization or firearms training school and that is approved by the
31 department of public safety or that uses instructors who are certified by the
32 national rifle association.

33 2. Completion of any hunter education or hunter safety course approved
34 by the Arizona game and fish department or a similar agency of another state.

35 3. Completion of any national rifle association firearms safety or
36 training course.

37 4. Completion of any law enforcement firearms safety or training
38 course or class that is offered for security guards, investigators, special
39 deputies or other divisions or subdivisions of law enforcement or security
40 enforcement and that is approved by the department of public safety.

41 5. Evidence of current military service or proof of honorable
42 discharge or general discharge under honorable conditions from the United
43 States armed forces.

44 6. A valid current or expired concealed weapon, firearm or handgun
45 permit or license that is issued by another state or a political subdivision

1 of another state and that has a training or testing requirement for initial
2 issuance.

3 7. Completion of any governmental police agency firearms training
4 course and qualification to carry a firearm in the course of normal police
5 duties.

6 8. Completion of any other firearms safety or training course or class
7 that is conducted by a department of public safety approved or national rifle
8 association certified firearms instructor.

9 0. The department of public safety shall maintain information
10 comparing the number of permits requested, the number of permits issued and
11 the number of permits denied. The department shall annually report this
12 information to the governor and the legislature.

13 P. The director of the department of public safety shall adopt rules
14 for the purpose of implementing and administering this section including fees
15 relating to permits that are issued pursuant to this section.

16 Q. This state and any political subdivision of this state shall
17 recognize a concealed weapon, firearm or handgun permit or license that is
18 issued by another state or a political subdivision of another state if both:

19 1. The permit or license is recognized as valid in the issuing state.

20 2. The permit or license holder is all of the following:

21 (a) Legally present in this state.

22 (b) Not legally prohibited from possessing a firearm in this state.

23 R. For the purpose of establishing mutual permit or license
24 recognition with other states, the department of public safety shall enter
25 into a written agreement if another state requires a written agreement.

26 S. Notwithstanding the provisions of this section, a person with a
27 concealed weapons permit from another state may not carry a concealed weapon
28 in this state if the person is under twenty-one years of age or is under
29 indictment for, or has been convicted of, a felony offense in any
30 jurisdiction, unless that conviction is expunged, set aside or vacated or the
31 person's rights have been restored and the person is currently not a
32 prohibited possessor under state or federal law.

33 T. The department of public safety may issue certificates of firearms
34 proficiency according to the Arizona peace officer standards and training
35 board firearms qualification for the purposes of implementing the law
36 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18
37 United States Code sections 926B and 926C). A law enforcement agency shall
38 issue to a law enforcement officer who has honorably retired a photographic
39 identification that states that the officer has honorably retired from the
40 agency. The chief law enforcement officer shall determine whether an officer
41 has honorably retired and the determination is not subject to review. A law
42 enforcement agency has no obligation to revoke, alter or modify the honorable
43 discharge photographic identification based on conduct that the agency
44 becomes aware of or that occurs after the officer has separated from the
45 agency.

1 Sec. 8. Section 15-714.01, Arizona Revised Statutes, is amended to
2 read:

3 15-714.01. Arizona gun safety program course

4 A. In addition to the voluntary training in the use of bows and
5 firearms prescribed in sections 15-713 and 15-714, any school district or
6 charter school may offer as an elective course a one semester, one credit
7 course in firearm marksmanship that shall be designated as the Arizona gun
8 safety program course.

9 B. A pupil shall be deemed to have satisfactorily completed the
10 Arizona gun safety program course by demonstrating that the pupil has the
11 ability to safely discharge a firearm as defined in section ~~13-3101~~ 13-105.

12 C. The course of instruction prescribed in this section shall be
13 jointly developed by the Arizona game and fish commission, the department of
14 public safety and private firearms organizations and may include materials
15 provided by private youth organizations. At a minimum, the Arizona gun
16 safety program course shall include each of the following:

- 17 1. Instruction on the rules of firearm safety.
- 18 2. Instruction on the basic operation of firearms.
- 19 3. Instruction on the history of firearms and marksmanship.
- 20 4. Instruction on the role of firearms in preserving peace and
21 freedom.
- 22 5. Instruction on the constitutional roots of the right to keep and
23 bear arms.
- 24 6. Instruction on the use of clay targets.
- 25 7. Practice time at a shooting range.
- 26 8. Actual demonstration by the pupil of competence with a firearm as
27 defined in section ~~13-3101~~ 13-105 by safely discharging the firearm at one or
28 more targets.

29 D. School districts and charter schools shall arrange for adequate use
30 of shooting range time by pupils in the Arizona gun safety program course at
31 any established shooting range.

32 E. Pupils who satisfactorily complete the Arizona gun safety program
33 course shall receive a certificate of accomplishment.

34 F. A person who is currently certified as a firearms safety instructor
35 by the Arizona game and fish department, the national rifle association, a
36 federal, state or local law enforcement agency, a branch of the United States
37 military, a federal agency, the reserve officer training corps, the junior
38 reserve officer training corps or the civilian marksmanship program is
39 qualified to teach the Arizona gun safety program course.

40 G. Nothing in this section shall be construed to limit or expand the
41 liability of any person under other provisions of law.